**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION NOs: 3333 & 24637 OF 1997**

% 4-06-2007

Between:

M/s.Godavari Perennial Oil Industries Limited,
Rep.by E.Raghavender Rao.

…Petitioner

and

The Govt. of A.P., rep.by its Principal Secretary,
Agriculture Department, Secretariat, Hyderabad
and another.

…Respondents

! Counsel for the Petitioners : MS. Sumalini Reddy

^ Counsel for Respondents : GP for Agriculture

<Gist :

>Head Note :

? Citations:
-Nil-

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**COMMON ORDER:**

The petitioner is a company, incorporated with an object of undertaking activity in promotion of palm oil, plantations, etc. The Government of Andhra Pradesh intended to develop and regulate the oil palm cultivation in the State. The State Legislature accordingly enacted A.P. Oil Palm (Regulation of Production and Processing) Act 1992 (for short "the Act"), which contains various provisions for promotion and regulation of oil palms. One such provision is creation of factory zones and allotment of the same, in favour of intending entrepreneurs.

The petitioner submitted an application to the State Government in Agriculture Department, with a request to allot factory zone, to it. By proceedings dated 15.10.1994, the

1st respondent allotted all the mandals in Khammam District, except

Aswaraopet and Mulakalapalli Mandals. The petitioner was required to make a deposit of Rs.5,00,000/-, enter into a Memorandum of understanding, and ultimately, bring into cultivation, an extent of 4,100 hectares, by the year 1995-96. The petitioner claims to have initiated several steps, to encourage the farmers, to take up the oil palm cultivation. He claims to have spent a sum of Rs.1.00 crore in the process. It is alleged that though an encouraging beginning was made, on account of lack of cooperation from the respondents, the proposed area could not be brought under cultivation. It is alleged that as against the entire mandals in the district, only few mandals were actually alloted

for cultivation. The 1st respondent issued proceedings, dated 27.1.1997, cancelling the provisional allotment of factory zone, made vide proceedings dated 15.10.1994. W.P.No.3333 of 1997 is filed, challenging the said proceedings.

The Director of Horticulture-cum-Oil Palm Commissioner issued a public notice, dated 5.9.1997, inviting interested parties and agencies, to set up oil palm processing units, in various districts, including Khammam. The same is challenged in W.P.No.24637 of 1997, mainly on the ground that the dispute relating to the cancellation of factory zone allotted to the petitioner, is the subject matter of W.P.No.3333 of 1997.

The respondents filed separate counter affidavits in the writ petitions. The gist of the same is that though the petitioner was required to bring under cultivation, an extent of 4,100 hectares, by the year 1995-96, a meagre extent of 243 hectares, was brought under cultivation. It is alleged that the very purpose of allotment of factory zone to the petitioner was defeated, and the progress in the matter was

virtually slowed down. The issuance of notice, inviting applications for allotment of factory zone is justified, on the ground that it is in accordance with the provisions of the Act.

The quantities of oil of traditional varieties, such as, groundnut, castor, til, sunflower, were not able to meet the demand of consumption. To meet the shortfall, the State Government has been importing palm oil from foreign countries. To make it as a regular phenomena, the state legislature enacted the Act, to regulate the production and supply of palm oil. Similar to the regulation and production of sugar came, the factory zones were contemplated under this Act also.

On an application submitted by the petitioner, it was allotted the factory zone, comprising of the entire extent of Khammam District, except two mandals. Certain conditions were stipulated therein. Most important among them is that the petitioner must bring an extent of 4,100 hectares, under oil palm cultivation, by the year 1995-96. Though the petitioner claims to have initiated various steps and spent substantial amount to meet the target, the fact remains that by January 1997, it was able to bring into cultivation, only an extent of 243 hectares, which is hardly 5% of the target. Faced with this situation, the 1st respondent cancelled the allotment in favour of the petitioner. As a consequential step, applications were invited from intending agencies for establishing factories, in the corresponding allotment of factory zones.

The petitioner had urged several contentions and states that the inability to reach the target of 4,100 hectares, was mainly on account of the failure of the respondents, to extend the subsidy to the farmers.

This allegation is denied by the respondents, and it is stated that necessary funds towards subsidy were released to the eligible farmers, and no complaints were received from any corner, in this regard. Even if there is any element of truth in what is stated by the petitioner, this court cannot adjudicate such disputed questions of fact. Further, the obligation of the petitioner to bring the said extent under cultivation was not linked up to any factors. The very object of allotting factory zone to the petitioner was defeated, on account of very meagre extent of area having been brought under cultivation. Having not been satisfied with the performance of the petitioner, the respondents have cancelled the allotment.

It is prerogative of the State to allot factory zone, to give effect to the provisions of the Act. The petitioner does not complain of any procedural irregularity, nor does it allege that the action of the respondents is tainted with malafide exercise of power. The allotment in favour of the petitioner involves not only distribution of largesse of the State, but also fulfilment of its obligation under enactment, which in turn, is aimed at strengthening the production of edible oils. This court does not find any basis to interfere with the impugned proceedings.

Learned counsel for the petitioner submits that her client may be refunded the amount of Rs.5,00,000/- deposited by it, and compensate the amount spent for promotion of the palm oil plantation. The order, dated 27.1.1997, is silent about the manner in which the deposit made by the petitioner is to be dealt with. Further, the circumstances, under which the petitioner is said to have spent the amount, and the extent thereof, are purely disputed questions of fact. There was no occasion for the respondents, to address the said questions. For this purpose, the petitioner has to make a representation.

For the foregoing reasons, the writ petitions are dismissed, however, by leaving it open to the petitioner, to make a representation, as regards refund or payment of the amounts, if any. As and when such a representation is made, it shall be disposed of within a period of three months. There shall be no order as to costs.

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**4th June 2007**

*L.R.copies be marked.*
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